

Message

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**From:** Wauters, Patrick [wauters.patrick@epa.gov]  
**Sent:** 3/18/2019 2:17:00 PM  
**To:** Schramm, Daniel [Schramm.Daniel@epa.gov]; Laumann, Sara [Laumann.Sara@epa.gov]; Spangler, Matthew [Spangler.Matthew@epa.gov]; Law, Donald [Law.Donald@epa.gov]; Carrillo, Andrea [Carrillo.Andrea@epa.gov]  
**Subject:** RE: (suggestion) ND Coyote Creek petition call

We don't know when we will get the superseding proposed permit from ND but the dates I used assume we receive it on April 1. They mentioned hoping to get in out in a couple weeks.

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**From:** Schramm, Daniel  
**Sent:** Monday, March 18, 2019 8:02 AM  
**To:** Wauters, Patrick <wauters.patrick@epa.gov>; Laumann, Sara <Laumann.Sara@epa.gov>; Spangler, Matthew <Spangler.Matthew@epa.gov>; Law, Donald <Law.Donald@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>  
**Subject:** RE: (suggestion) ND Coyote Creek petition call

## Ex. 5 Attorney Client (AC)

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**From:** Wauters, Patrick  
**Sent:** Thursday, March 14, 2019 5:21 PM  
**To:** Laumann, Sara <Laumann.Sara@epa.gov>; Spangler, Matthew <Spangler.Matthew@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Law, Donald <Law.Donald@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>  
**Subject:** RE: (suggestion) ND Coyote Creek petition call

Nothing recently. I'm still hoping to get a second draft of ND's response to comments by the end of this week.

## Ex. 5 Attorney Client (AC)

Patrick

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**From:** Laumann, Sara  
**Sent:** Thursday, March 14, 2019 2:44 PM  
**To:** Wauters, Patrick <wauters.patrick@epa.gov>; Spangler, Matthew <Spangler.Matthew@epa.gov>; Schramm, Daniel

<Schramm.Daniel@epa.gov>; Law, Donald <Law.Donald@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>

**Subject:** RE: (suggestion) ND Coyote Creek petition call

Thanks all for the dialog on this. Patrick, any updates from a conversation with the State?

Sara L. Laumann • Senior Assistant Regional Counsel • Steward, AFGE Local 3607 • US EPA Region 8 • (303) 312-6443

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**From:** Wauters, Patrick

**Sent:** Friday, March 8, 2019 8:35 AM

**To:** Spangler, Matthew <Spangler.Matthew@epa.gov>; Laumann, Sara <Laumann.Sara@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Law, Donald <Law.Donald@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>

**Subject:** RE: (suggestion) ND Coyote Creek petition call

Hi all,

Thanks Sara and Matt for weighing in on this.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

Patrick

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**From:** Spangler, Matthew

**Sent:** Friday, March 8, 2019 7:47 AM

**To:** Laumann, Sara <Laumann.Sara@epa.gov>; Wauters, Patrick <wauters.patrick@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Law, Donald <Law.Donald@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>

**Subject:** RE: (suggestion) ND Coyote Creek petition call

Hi Sara et al.,

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Matt Spangler  
U.S. EPA/ OAQPS/ AQPD/ OPG  
(919) 541-0327 | [spangler.matthew@epa.gov](mailto:spangler.matthew@epa.gov)

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**From:** Laumann, Sara  
**Sent:** Thursday, March 07, 2019 11:57 AM  
**To:** Wauters, Patrick <[wauters.patrick@epa.gov](mailto:wauters.patrick@epa.gov)>; Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>; Spangler, Matthew <[Spangler.Matthew@epa.gov](mailto:Spangler.Matthew@epa.gov)>; Law, Donald <[Law.Donald@epa.gov](mailto:Law.Donald@epa.gov)>; Carrillo, Andrea <[Carrillo.Andrea@epa.gov](mailto:Carrillo.Andrea@epa.gov)>  
**Subject:** RE: (suggestion) ND Coyote Creek petition call

Hi Patrick, DJ, and All

I've been thinking about the Coyote Creek situation and wanted to pass along the following suggestion.

## Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

...and for helping refresh your recollection, here are excerpts from my prior email with the additional background/educational information

## Ex. 5 Attorney Client (AC)

Why do companies create VIEs? As explained in a recent journal article

The consolidation and reporting of related entities can be a complicated accounting topic, particularly for private companies that use separate legal entities to manage a diverse network of businesses and business interests. Often, these companies manage and fund a network of legal entities via a single parent company or through a small group of related entities, which this article refers to as “entities under common control” or “common control entities.”<sup>1</sup>

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<sup>1</sup> Accounting Standards Update. No. 2009-17 (Dec. 2009), Consolidations, Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities, An Amendment of the FASB Accounting Standards Codification<sup>TM</sup>, Financial Accounting Standards Board of the Financial Accounting Foundation (Topic 810) [https://fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1176156601576&acceptedDisclaimer=true](https://fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176156601576&acceptedDisclaimer=true) ). See also, short discussion in Wikipedia [https://en.wikipedia.org/wiki/Variable\\_interest\\_entity#cite\\_note-ey-1](https://en.wikipedia.org/wiki/Variable_interest_entity#cite_note-ey-1); and recent article “Common Control Entities and Consolidation of Variable Interest Entities”, Richard C. Jones, The CPA Journal (Aug., 2018) <https://www.cpajournal.com/2018/08/15/common-control-entities-and-consolidation-of-variable-interest-entities/>.

**From:** Wauters, Patrick  
**Sent:** Monday, March 4, 2019 9:44 AM  
**To:** Laumann, Sara <Laumann.Sara@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Spangler, Matthew <Spangler.Matthew@epa.gov>  
**Cc:** Carrillo, Andrea <Carrillo.Andrea@epa.gov>  
**Subject:** RE: ND Coyote Creek petition call

## Ex. 5 Deliberative Process (DP)

**From:** Laumann, Sara  
**Sent:** Monday, March 4, 2019 9:39 AM  
**To:** Schramm, Daniel <Schramm.Daniel@epa.gov>; Spangler, Matthew <Spangler.Matthew@epa.gov>; Wauters, Patrick <wauters.patrick@epa.gov>  
**Cc:** Carrillo, Andrea <Carrillo.Andrea@epa.gov>  
**Subject:** RE: ND Coyote Creek petition call

Just getting back into work and catching up on this after being out a couple of weeks.

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Sara L. Laumann • Senior Assistant Regional Counsel • Steward, AFGE Local 3607 • US EPA Region 8 • (303) 312-6443

**From:** Schramm, Daniel  
**Sent:** Monday, March 4, 2019 9:00 AM  
**To:** Spangler, Matthew <Spangler.Matthew@epa.gov>; Wauters, Patrick <wauters.patrick@epa.gov>  
**Cc:** Laumann, Sara <Laumann.Sara@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>  
**Subject:** RE: ND Coyote Creek petition call

# Ex. 5 Deliberative Process (DP)

**From:** Spangler, Matthew  
**Sent:** Monday, March 4, 2019 9:54 AM  
**To:** Wauters, Patrick <wauters.patrick@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>  
**Cc:** Laumann, Sara <Laumann.Sara@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>  
**Subject:** RE: ND Coyote Creek petition call

Glad to hear the news!

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

I don't have any examples in front of me, and I'm not aware of any standardized withdrawal language that EPA has endorsed, but I'm sure there are examples from other states that would be acceptable. I'm checking with others in my group, but this might be a good question for the air permits listserv if you want to open up your request for examples to a wider audience.

## Ex. 5 Deliberative Process (DP)

Matt Spangler  
U.S. EPA/ OAQPS/ AQPD/ OPG  
(919) 541-0327 | [spangler.matthew@epa.gov](mailto:spangler.matthew@epa.gov)

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**From:** Wauters, Patrick  
**Sent:** Thursday, February 28, 2019 5:32 PM  
**To:** Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>  
**Cc:** Laumann, Sara <[Laumann.Sara@epa.gov](mailto:Laumann.Sara@epa.gov)>; Carrillo, Andrea <[Carrillo.Andrea@epa.gov](mailto:Carrillo.Andrea@epa.gov)>; Spangler, Matthew <[Spangler.Matthew@epa.gov](mailto:Spangler.Matthew@epa.gov)>  
**Subject:** RE: ND Coyote Creek petition call

Great, thanks Dan.

I talked with ND about this and at least at the staff level they are open to providing a formal withdrawal of the current proposed permit. **Ex. 5 Deliberative Process (DP)** but they acknowledged that if they are not ready with their response to comments they are willing to simply withdraw the current proposed permit by roughly March 15 **Ex. 5 Deliberative Process (DP)**. **Ex. 5 Deliberative Process (DP)** They intend to keep the petitioner informed of all actions as well.

ND was curious if there is any current language that other states have used in withdrawing a proposed permit. Are any of you aware of any standardized language the state could use for this situation?

Thanks,

Patrick

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**From:** Schramm, Daniel  
**Sent:** Thursday, February 28, 2019 1:17 PM  
**To:** Wauters, Patrick <[wauters.patrick@epa.gov](mailto:wauters.patrick@epa.gov)>  
**Cc:** Laumann, Sara <[Laumann.Sara@epa.gov](mailto:Laumann.Sara@epa.gov)>; Carrillo, Andrea <[Carrillo.Andrea@epa.gov](mailto:Carrillo.Andrea@epa.gov)>; Spangler, Matthew <[Spangler.Matthew@epa.gov](mailto:Spangler.Matthew@epa.gov)>  
**Subject:** RE: ND Coyote Creek petition call

Patrick,

I went ahead and CC'd some other folks on my reply though I understand from our phone call this afternoon that you discussed this at the end of the call after I dropped off, and others generally felt this was a good approach.

To respond to your question – **Ex. 5 Attorney Client (AC)**  
**Ex. 5 Attorney Client (AC)**

# Ex. 5 Attorney Client (AC)

Happy to discuss any of this further with everyone - Dan

**From:** Wauters, Patrick  
**Sent:** Thursday, February 28, 2019 12:04 PM  
**To:** Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>  
**Subject:** ND Coyote Creek petition call

Hi Dan,

I just wanted to follow up with you regarding a question I had that came up at the end of our call after you had left.  
Given that ND has expressed that they intend to re-issue the proposed TV permit for another 45 day EPA review

Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Thanks,

Patrick Wauters  
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US EPA – Region 8  
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303-312-6114  
[Wauters.patrick@epa.gov](mailto:Wauters.patrick@epa.gov)